

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing
 and
 Billing Format

CC Docket No. 98-170

Petition for Temporary, Limited Waiver

Valley Telephone Cooperative, Inc. ("Valley") and its affiliate, Copper Valley Telephone, Inc. ("Copper Valley") (collectively the "Petitioners"),¹ by counsel, hereby seek temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, the Petitioners seek temporary waiver of the requirements of Section 64.2401(b) regarding description of charges (the "TIB Description Requirement")³ and Section 64.2401(d) regarding disclosure of inquiry contacts

¹ Attachment A contains the declaration of Judy Bruns, Chief Executive Officer/General Manager of Valley Telephone Cooperative, Inc. and Copper Valley Telephone, Inc. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ 47 C.F.R. § 64.2401(b) states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

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(the "TIB Inquiry Contact Requirement")⁴(collectively, the "TIB Requirements"). The Petitioners seek this waiver until January 15, 2000.

Valley is a member of the United States Telecom Association ("USTA"). As such, Valley recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies,⁵ and would not otherwise cover Copper Valley unless the relief sought was applied to all carriers as USTA has suggested.⁶ Moreover, the Petitioners recognize that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners requests a waiver of the TIB Requirements until January 15, 2000.

⁴ 47 C.F.R. § 64.2401(d) states that

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

⁶ See Reply Comments of USTA, CC Docket 98-170, filed September 10, 1999 at

Until the requested waiver expires, the Petitioners will continue to work diligently on the software billing system changes in order to comply with the TIB Requirements. Moreover, even after the waiver expires, the Petitioners' customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers and for particular services. Accordingly, the Petitioners respectfully submit that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

Valley provides exchange and exchange access services to approximately 2,756 lines in Arizona and approximately 1,488 lines in New Mexico. Copper Valley provides exchange and exchange access services to approximately 4,819 lines in Arizona. Each Petitioner is a rural telephone company under the Communications Act of 1934, as amended. In October, 1999, after the release by the FCC of its TIB Order, the Petitioners began addressing the various TIB requirements with its outside billing vendor to identify what billing system changes would be required to ensure the Petitioners's TIB compliance. Accordingly, the Petitioners included these activities as part of their Year 2000 issue checklist associated with all of their computer-based systems.

The Petitioners have been informed by their billing vendor that the software upgrades necessary for compliance with the TIB Inquiry Contact Requirement will be forwarded in November. However, the Petitioners anticipate the need for additional time to successfully test the software to ensure that their bills conform to the FCC's TIB Requirements. The Petitioners

will not, however, be able to comply with the TIB Requirements by November 12, 1999.⁷

A. Compliance Issues with Respect to the TIB Inquiry Contact Requirement

The need for the temporary, limited waiver of the TIB Inquiry Contact Requirement arises in connection with the Petitioners' AOS provider billing. The Petitioners receive data from the AOS provider's clearinghouse. The bill section containing these calls may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle. The charges that the Petitioners receive are sorted by customer and by date and time of that customer's usage. While the Petitioners' existing billing system software sorts these call records by AOS provider, the software is not capable of placing the AOS provider's toll free number on the bill.⁸ As a result, the software modifications that are anticipated to be delivered in November must accommodate varying levels of screening and identification of an AOS provider as well as provide the contact number of the AOS provider. These demands will, in turn, affect the processing time associated with rendering the bill.

Although the Petitioners' vendor will be delivering the software modifications required to update the Petitioners' billing system, testing will still need to occur when these updates are received in order to ensure TIB rule compliance. Accordingly, it will be technically infeasible for

⁷ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

⁸ Although The Petitioners typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, The Petitioners is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, in The Petitioners' experience, customer inquiries regarding AOS provider charges are minimal.

the Petitioners to comply with the November 12, 1999 date by which the TIB Inquiry Contact Requirement is scheduled to go into effect.⁹ Consistent with the implementation of the other billing software upgrades, the Petitioners submit that compliance with this TIB rule should be possible by January 15, 2000.

B. Compliance Issues with Respect to the TIB Description Requirement

With respect to the TIB Description Requirement, the software the Petitioners receive will also permit them to disaggregate the charges and the services that are included within the existing bill's charge for local service. Currently, charges for additional local features (e.g., custom calling features) are aggregated with the charge for the Petitioners' dial tone service. Moreover, no description of these additional features is provided. Once the software reconfiguration necessary to comply with this TIB rule is completed, the Petitioners will then test the bills in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."¹⁰ Even in the absence of this additional bill detail, however, the Petitioners note that they have had minimal customer complaints regarding their respective charges for other local services.

As with TIB Inquiry Contact Requirement, the Petitioners do not believe that they can complete the necessary testing of the software modifications by November 12, 1999. The Petitioners anticipate, however, that they can accomplish these tasks by January 15, 2000.

⁹ See n. 7 supra.

¹⁰ 47 C.F.R. § 64.2401(b).

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these facts and circumstances, the Petitioners respectfully submit that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, the Petitioners will continue to make diligent efforts to comply with the TIB Requirements effective November 12, 1999, as part of their efforts to address all interrelated issues.¹¹ Nonetheless, the Petitioners will be incapable of successfully testing the new software required to meet the TIB Requirements by November 12, 1999. The Petitioners anticipate, however, that compliance with the TIB Requirements should be possible by January 15, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹²

The Petitioners also respectfully submit that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹³ The software changes required by the Petitioners clearly fall into this Commission-defined

¹¹ Accord USTA Petition at 4, 9, and 11.

¹² "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹³ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "forestall" or "roll back" disfavored regulations, or use this policy for purposes of competitive advantage"¹⁴ are not applicable here. The Petitioners will continue to work toward TIB compliance and seek only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that the Petitioners are attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the Petitioners; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by the Petitioners.

Second, the Commission has already recognized that certain aspects of the TIB implementation process require a blanket waiver for all companies.¹⁵ Consistent with the underlying rationale of that waiver, the implementation challenges confronting the Petitioners with respect to complying with the TIB Requirements likewise warrant this brief delay. This is particularly true where the brief delay requested by Petitioners will help promote efficiency and continuity in the enhancements of their billing system capability without the Petitioners incurring unnecessary expense.

¹⁴ Id. at para. 16.

¹⁵ See n. 7, supra.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify charges and inquire about a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, the Petitioners will continue to provide customer service assistance regarding billing inquiries and questions. The Petitioners will also continue to provide their local telephone number on the bill in order to allow customers to contact them about AOS provider charges. When a customer questions an AOS provider charge, the Petitioners will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, the Petitioners note that, in the absence of this limited waiver of the TIB Inquiry Contact Requirement, their ability to bill for isolated customer-originated traffic on behalf of AOS providers would be in jeopardy. Facing the risk of non-compliance with the TIB Inquiry Contact Requirement, the Petitioners may be forced to consider terminating their billing relationship with the AOS providers. This, in turn, may increase the cost to the AOS provider of billing, thereby inhibiting the continued development of a competitive interexchange service marketplace.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, the Petitioners' customer concerns over charges for either the Petitioners' local services or for AOS provider have been minimal. Moreover, the Petitioners anticipate that their experience will not change during the

time that the requested waiver is in place.

III. Conclusion

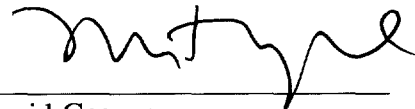
Because the Petitioners are technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until January 15, 2000 will ensure that the Petitioners can implement and successfully test the billing system software upgrades necessary to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by the Petitioners as they continue to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the requirements of 47 C.F.R. §§ 64.2401(b) and 64.2401(d) until January 15, 2000.

Respectfully submitted,

**Valley Telephone Cooperative, Inc.
Copper Valley Telephone, Inc.**

By



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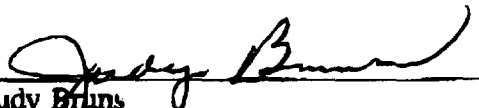
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Declaration of Judy Bruns
Chief Executive Officer/General Manager of Valley Telephone Cooperative, Inc.
and Copper Valley Telephone, Inc.

I, Judy Bruns, Chief Executive Officer/General Manager of Valley Telephone Cooperative, Inc. and Copper Valley Telephone, Inc. (the "Companies"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding the Companies is true and accurate to the best of my knowledge, information, and belief.

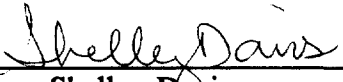
Date 11/3/99



Judy Bruns
Chief Executive Officer/General Manager

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Valley Telephone Cooperative, Inc. and Copper Valley Telephone, Inc. was served on this 3rd day of November, 1999 by hand delivery to the following parties:



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